

**BEFORE THE AMERICAN ARBITRATION ASSOCIATION**

North American Court of Arbitration for Sport Panel

United States Anti-Doping Agency,	)	
	)	
Claimant,	)	
v.	)	AAA No. 30 190 00847 06
	)	
Floyd Landis,	)	
	)	
Respondent	)	
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**PETITIONER'S MOTION IN LIMINE TO PREVENT THE ADMISSION OF  
EVIDENCE OF RESPONDENT'S PREEXISTING MEDICAL CONDITIONS AS A  
DEFENSE**

Petitioner the United States Anti-Doping Agency ("USADA") respectfully submits this Motion in Limine to Prevent The Admission of Evidence of Respondent's Preexisting Medical Conditions As A Defense. As ground therefor, Petitioner states as follows:

1. Petitioners have repeatedly asked Respondent to clarify all of his defenses prior to the filing of pre-trial briefs. Respondent consistently responded to those requests by stating that USADA would learn all of his defenses when his Pre-Trial Brief was filed.
2. As background, Respondent has repeatedly made statements in the press that the positive test of Sample # 995474 collected following Stage 17 of the 2006 Tour de France was not the result of doping but "natural and produced by my own organism." (See Ex. 39 at p.2.) In other news items, Respondent acknowledged that he had been quick to create excuses for the failed test, but the articles reiterate Respondent's statements that the test was the "result of his natural physiology." (See *id.* at p. 5.)
3. In direct contradiction to his statements that the positive test was in fact a natural occurrence, Respondent also provided the press with a number of preexisting medical conditions and prescription medicines as the reason for the failed test. (See *id.* at p. 3-4). Among the possible defenses offered to the media were cortisone shots, the after-effects of a night of drinking beer and whiskey, and a thyroid medication. (See *id.*)
4. Accordingly, on April 3, 2007 USADA sought evidence related to any of Respondent's preexisting medical conditions that may be put forth as a defense in its Request of the United States Anti-Doping Agency for Production of Documents from Floyd Landis ("First Request"). Respondent did not provide the requested evidence or otherwise respond to the First Request.
5. On April 26, 2007, Respondent filed his Pre-Trial Brief. Nowhere in that brief does Respondent argue that any preexisting medical condition or any medication he was taking

therefor were a cause for the elevated T/E ratio in Sample # 995474 or the subsequent confirming IRMS analysis of the Stage 17 B sample. Further, no mention of any medical condition has been made in any other filing to the Panel such as would put Petitioner on notice that such a defense would be presented.

6. Petitioner confirmed in propounding its May 4, 2007 Second Request of the United States Anti-Doping Agency for Production of Documents from Floyd Landis ("Second Request") that all medical defenses have been abandoned and that Respondent "will not be putting his medical condition at issue in this proceeding." (See Ex. A.) This confirmation stems from both the lack of response to the First Request and the absence of argument suggesting a preexisting medical condition as a defense in Respondent's Pre-Trial Brief. Accordingly, Petitioner withdrew its request for documents regarding defenses related to purported medical conditions.

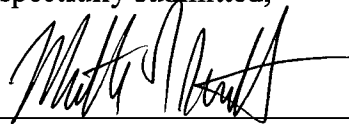
7. At this time, days before the hearing is to begin in this matter, it would be prejudicial to the Petitioner to allow Respondent to raise a defense previously mentioned only in the press and flatly contradicted by other of Respondent's concurrent press statements.

8. This case is highly scientific and technical. Each argument presented by either party requires the assistance of experts in numerous scientific fields. When the Petitioner has repeatedly sought, and been told it would receive, Respondent's defenses in advance, and Respondent has had the opportunity to present its case its Pre-Trial Brief, Petitioner should not be surprised at the hearing with an argument that any or all of the preexisting medical conditions enumerated in press did in fact cause Respondent's positive test.

9. It is for the reasons enumerated above that Petitioners request the Panel exclude any evidence of a preexisting medical condition submitted as a defense to the allegations in this case.

DATED: May 8, 2007

Respectfully submitted,



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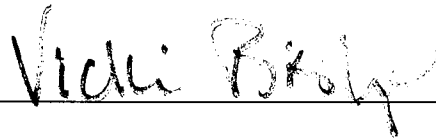
Attorneys for the United States Anti-Doping Agency

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 8th day of May, 2007, a true and correct copy of the foregoing **PETITIONER'S MOTION IN LIMINE TO PREVENT ADMISSION OF EVIDENCE OF RESPONDENT'S PREEXISTING MEDICAL CONDITIONS AS A DEFENSE** was served by Electronic Mail, as follows:

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